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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,367	02/10/2004	Rodney Kenneth Merrell II	1880-0001	9932

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MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS, IN 46204

EXAMINER

HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/775,367	Applicant(s) MERRELL, RODNEY KENNETH	
	Examiner Noah C. Hawk	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 9 and 11 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in the reply filed on 4/17/06 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nott et al. in US Patent 6354682 in view of Nichols in US Patent 4874211. Nott et al. discloses a storage system comprising a frame (200) mounted for pivotal movement between a storage position and an access position, a support (134) and an actuator (204 and 206) coupled to the frame and the support. Nott et al. fails to disclose a pivot mechanism coupling the support to the frame to keep the support in a fixed orientation when the frame is moved. Nichols teaches a stowable frame having a support (24) and a pivot mechanism (26) to maintain the support in a fixed orientation relative to a fixed surface (16) when the frame is moved between storage and access positions. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Nott et al. by adding a pivot mechanism to fix the orientation of the support

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while the frame is moved and to cooperate with the actuator of the device in order to simplify the operation of the device.

4. Claims 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nott et al. in view of Steadman in US Publication 2002/0084732. Nott discloses a storage system comprising a mounting frame (50) mounted to the ceiling, a storage compartment comprising a frame (122) and at least one support surface (134), a lift mechanism (204) and a motor actuator (206) driving the lift mechanism. Nott et al. fails to teach a tilt mechanism to tilt pivoting shelves, that the actuator drives both the lift and tilt mechanism, or that the actuator further comprises a shaft. Steadman teaches a storage system having tiltable shelves (30) driven by a tilt mechanism (56) to maintain the shelves in a substantially consistent orientation relative to a fixed surface when the storage system is moved. Steadman further teaches an actuator comprising a motor (48) coupled by a gearbox (46) to a shaft (44) that drives both the tilt and a lift mechanism. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Nott et al. by using tiltable shelves driven by a tilt mechanism and an actuator that drives both the tilt and lift mechanisms as taught by Steadman in order to prevent the contents of the shelves from falling then the device is moved and to enable a single actuator to drive both the tilt and pivot motions to simplify the operation of the device.

Allowable Subject Matter

5. Claims 2-7 and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steadman '475 teaches a storage device with a consistent shelf orientation and a driving actuator. Noellert teaches a ceiling storage device. Weil teaches a storage device with tilting shelving units.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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7/12/06


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600